

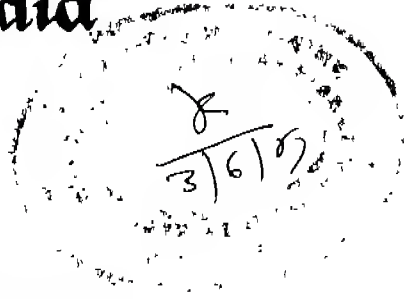


# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 2  
PART II—Section 2

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY



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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन  
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 21st November, 1986:—

I

BILL No. XXXVII of 1986

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1986. Short  
title.
2. In the Eighth Schedule to the Constitution,— Amend-  
ment of  
Eighth  
Schedule.
  - (a) entries 7 to 15 shall be re-numbered as entries 8 to 18, respectively;
  - (b) before entry 8 as so re-numbered, the entry "7. Konkani" shall be inserted;
  - (c) after entry 8 as so re-numbered, the entry "9. Manipuri" shall be inserted; and
  - (d) after entry 10 as so re-numbered, the entry "11. Nepali" shall be inserted.

## STATEMENT OF OBJECTS AND REASONS

There is a good number of Nepali speaking people in the Darjeeling district of West Bengal, Konkani speaking people in Maharashtra and Manipuri speaking people in Manipur who have contributed substantially to the overall development and advancement of the country. These people have a feeling of being kept out of the mainstream of national development. The alien rulers for serving their own interests kept such people educationally, culturally, economically and politically backward.

To harness the patriotic urge of the people speaking these languages and in the interest of national integration and development of the country, it is desirable that Nepali, Konkani and Manipuri languages are included in the Eighth Schedule to the Constitution of India.

Hence, this Bill.

GURUDAS DAS GUPTA

## II

## BILL NO. XXXIX OF 1986

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act. 1986. Short title.
2. After Part X of the Constitution, the following Part shall be Insertion  
of new  
part XA  
inserted, namely:—

## “PART XA

SPECIAL PROVISIONS RELATING TO HILL AREAS OF THE DISTRICT OF  
DARJEELING

**244B.** In this Part, unless the context otherwise requires,—

Defini-  
tions.

(a) “autonomous region” means the territory comprising the areas specified in article 244C;

(b) “District Council” means a Council constituted under article 244D;

(c) "District Fund" means the District Fund constituted under article 244G;

(d) "member" means a member of the District Council;

(e) "Official Gazette" means the Gazette published by the Government of the State of West Bengal;

(f) "State Government" means the Government of the State of West Bengal;

Formation  
of auto-  
nomous re-  
gion.

244C. Notwithstanding anything contained in this Constitution, Parliament may, by law form within the State of West Bengal an autonomous region comprising such areas of the district of Darjeeling and neighbouring districts where the Nepali speaking people are in majority, as may be specified and create for the administration of such region a District Council to be constituted in the manner specified under article 244D with such powers and functions as may be specified by law made under article 244E.

Constitution of  
District  
Council.

244D. (1) The District Council shall be a body corporate by the name of Autonomous District Council, Darjeeling and shall have perpetual succession and a common seal with power to acquire, hold and dispose of property and shall by the said name sue and be sued.

(2) The District Council shall consist of not more than fifty members, out of whom such number of members shall be elected on the basis of adult suffrage as may be specified by law made by the Legislature of the State of West Bengal in that behalf:

Provided that members of the Legislative Assembly of the State of West Bengal and the member or members of the House of the People for the time being representing the autonomous region or part thereof or such member or members of the Council of States as may be nominated by the Government of the State of West Bengal shall be *ex-officio* members of the District Council;

Provided further that such number of seats shall be reserved in the District Council for the Scheduled Castes, Scheduled Tribes and the Linguistic Minorities in the region as may be specified by the State Government by an order notified in the Official Gazette.

(3) The constituencies for election to the District Council shall be territorial and the State Government shall by order, notified in the Official Gazette, determine the territorial limits of the constituencies into which the autonomous region shall be delimited for the purpose of election of the members to the District Council and such notification shall specify the constituencies to be reserved respectively for the Scheduled Castes, the Scheduled Tribes and the Linguistic Minorities.

(4) The State Government shall, by order notified in the Official Gazette, provide for—

(a) qualifications for membership of the District Council;

(b) disqualifications for membership of the District Council;

(c) preparation of the electoral rolls of the constituencies;

(d) all matters in relation to, or in connection with, the holding of elections to, and due composition of, the District Council including the terms thereof and in particular, may provide for all or any of the following matters:—

(i) appointment of Chairman, Vice-Chairman and other officers of the District Council out of the members thereof;

(ii) formation of the Executive Committee of the District Council out of the Members thereof;

(iii) salaries and allowances of the Chairman, Vice-Chairman and the members;

(iv) conduct of executive functions;

(v) powers of the Executive Committee; and

(vi) such other matters necessary for, and incidental to, the functioning of the District Council.

(5) Every member of the District Council shall before taking his seat make and subscribe before such person or persons, as may be appointed by the State Government in that behalf, oath or affirmation according to the form prescribed by the State Government for the purpose.

244E. (1) Subject to any laws made or to be made or be made by Parliament or by the Legislature of the State of West Bengal applicable to the autonomous region, the District Council shall have powers to make laws with respect to—

Power of District Council to make laws.

(i) the allotment, occupation or the setting apart, of land, other than any land which is a reserved forest, for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town:

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or un-occupied, for public purposes by the State Government in accordance with the laws for the time being in force, authorising such acquisition;

(ii) the management of any forest not being a reserved forest;

(iii) the use of any canal or water-course for the purpose of agriculture;

(iv) the establishment of village or town committees or councils and their powers;

(v) any other matter relating to village or town administration, including village or town police;

(vi) the inheritance of property;

(vii) marriage and divorce;

(viii) land;

(ix) land revenue;

(x) agriculture;

- (xi) public health and sanitation, hospitals and dispensaries;
- (xii) social customs;
- (xiii) customary laws;
- (xiv) tourism;
- (xv) employment;
- (xvi) public works-development and planning;
- (xvii) transport and communications;
- (xviii) relief for the disabled and the unemployed;
- (xix) burials and burial grounds, cremation and cremation grounds;
- (xx) preservation, protection and improvement of livestock and prevention of animal diseases, veterinary training and practice;
- (xxi) ponds and the prevention of cattle trespass;
- (xxii) water, that is to say water supplies, irrigation and canals, drainage and embankments, water storage and water power;
- (xxiii) protection of wild animals and birds;
- (xxiv) fisheries;
- (xxv) production, supply and distribution of goods;
- (xxvi) markets and fairs;
- (xxvii) money-lending and money-lenders; relief in respect of agricultural indebtedness;
- (xxviii) inns and inn-keepers; including hostels of all kinds;
- (xxix) theatres and dramatic performances, cinemas; video, sports, entertainments and amusements;
- (xxx) education-primary and secondary;
- (xxxi) betting and gambling;
- (xxxii) works, lands and buildings vested in or in the possession of the District Council;
- (xxxiii) small-scale industries; trade and commerce;
- (xxxiv) district public services, District Public Service Commission;
- (xxxv) mines and minerals;
- (xxxvi) micro-hydel projects;
- (xxxvii) medicinal herbs and plants;
- (xxxviii) taxes on the entry of goods into a local area for consumption, use or sale therein;
- (xxxix) taxes on the consumption or sale of electricity;
- (xl) taxes on advertisements other than advertisements published in the newspapers;

- (xli) taxes on goods and passengers carried by road;
- (xlii) taxes on animals and boats;
- (xliii) tolls;
- (xliv) taxes on professions, trades, callings and employments;

16 of 1927.

(2) In this article a "reserved forest" means an area which is a reserved forest within the meaning of the Indian Forest Act, 1927.

(3) All laws made under this article shall come into force with effect from the date of their publication in the Official Gazette:

Provided that the Central Government may, with regard to any law made or to be made by Parliament or State Government in respect of laws made or to be made by the Legislature of the State of West Bengal, by order notified in the Gazette of India or Official Gazette, as the case may be, provide that any such law or laws shall not apply to the autonomous region.

*Explanation.*—"Law" in this article includes any enactment, ordinance, regulation, order, by-law, rule, scheme, notification or other instrument having the force of law.

**244F.** (1) The State Government may by notified order, constitute a court or courts with the autonomous region to the exclusion of any court having jurisdiction over such area and may appoint, in consultation with the Chairman or in his absence the Vice-Chairman of the District Council, suitable person or persons to be members or presiding Officers of such courts as may be necessary for the purpose of administration of justice in the autonomous region.

Adminis-  
tration of  
justice  
in auton-  
omous  
regions.

(2) The court or courts so constituted shall have power to try all suits and proceedings of such description and of such value as may be determined by the State Government and notified in the Official Gazette.

(3) An appeal shall lie to the High Court at Calcutta from any final decision rendered by such court or courts and for the said purpose the State Government shall have power to frame rules in consultation with the Chairman or in his absence the Vice-Chairman of the District Council which shall be notified in the Official Gazette.

**244G.** (1) There shall be constituted for the autonomous region, a District Fund to which shall be credited all moneys received by the District Council in course of administration of such autonomous region.

District  
Fund.

(2) The State Government may make rules for the management of the District Fund and for the procedure to be followed in respect of payment of money into the said Fund, withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with and ancillary to the matters aforesaid.

(3) The accounts of the District Council shall be kept in such form as may be prescribed by the State Government in consultation with the Accountant-General of West Bengal.

(4) The State Government shall cause the accounts of the District Council to be audited by the Accountant-General of West Bengal in such manner as it may think fit and the report of the Accountant-General shall be submitted to the State Government, after it has been placed before, and discussed by the District Council and the State Government shall lay such report before the Legislature of the State of West Bengal.

Vesting of  
property in  
District  
Council.

244H. (1) Subject to such restrictions or conditions as the State Government may think fit, all properties of the nature specified in this article and situated within the autonomous region formed under article 244C, shall vest in, and belong to, the District Council with all other properties which may become vested in the District Council and shall be kept under the direction, management and control of the District Council which shall hold and apply the same for the purpose of this Act.

(2) The properties referred to in clause (1) shall include—

(a) all public buildings, constructed and maintained out of the District Funds;

(b) all public roads, constructed or maintained out of the District Fund and the stones and other materials including the trees, erections, implements and other things provided for such roads; and

(c) all lands or other properties, movable or immovable, transferred to the District Council by the Government."



### STATEMENT OF OBJECTS AND REASONS

Prior to the independence of the country and even after independence, the people of Darjeeling district in the State of West Bengal and in particular, the Nepali speaking people of the district, who have contributed substantially to the overall development and advancement of the country, nurtured a feeling of being kept out of the mainstream of national development. The alien rulers for their own interest kept these people educationally, culturally, economically and politically backward and they have felt for decades to have been cut off from the national mainstream. There has been a persistent demand for their fuller and greater participation in the process of national development consistent with their separate identity and development of their own economic, political and cultural life in consonance with their specific aptitude and characteristic, unitedly with the people of West Bengal and other parts of the country, it is well known that since the period of Morley-Minto Reforms, the people of the area have been demanding autonomy which was reiterated time and again. They represented their case for autonomy before the Simon Commission and after independence, they made their demand for autonomy within the State of West Bengal before the then Prime Minister of India Pandit Jawaharlal Nehru in April, 1952. The demand was made not only by the Nepali speaking people but also by all political parties which included Darjeeling District Committee of the Indian National Congress, Gorkha League, Communist Party of India, Bhutia and Lepcha Associations, different Bar Associations and Organisations of the Bengali community. They further represented their case before the State Reorganisation Commission when it visited Darjeeling in 1955.

The alien rulers were insensitive to the claims, urges and aspirations of the people of the area and, unfortunately, even after independence, their reasonable demand has not been considered favourably. This has created deep rooted frustration amongst the people, which is being exploited by the reactionary and vested interests resulting in demands for a separate State in the name of 'Gorkha Land'. Such demand is being exploited by interested and designing persons and parties and will result in disintegration of the country.

To harness the patriotic urge of the Nepali speaking people, in the interest of national integration and development of the country, to which the Nepali speaking people have made significant and gallant contributions with their loyal and devoted service, such people should be drawn into the mainstream of national development and progress by providing them opportunities to participate in the administration and developmental activities of the region thereby instilling in them a sense of belonging and involvement. This can only be achieved by granting the people of the area regional autonomy in the compact areas of three hill sub-divisions of the Darjeeling district and the contiguous areas where the Nepali speaking people are in majority, within the State of West Bengal.

Hence, this Bill.

GURUDAS DAS GUPTA

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the State Government to provide, by order notified in the Official Gazette, for membership of the District Council, and all matters in connection with the holding of elections to the District Council and other matters relating to the functioning of the District Council (New article 244D); prescribe the form of oath or affirmation to be subscribed before taking seat in the District Council (New article 244D); and make rules for the management of the District Fund and to prescribe the form in which the accounts of the District Council shall be kept (New article 244G). Since these are matters of detail only and cannot be provided in the Bill itself, the delegation of legislative power is of a normal character.

## III

## BILL NO. XXXVIII OF 1986

*A Bill to provide for the auditing of accounts of Banking Companies by an independent authority and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Banking Companies (Audit) Act, 1986.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

2. In this Act, unless the context otherwise requires,—

Defini-  
tions.

(a) "Auditor-General of Banking Companies" means the Auditor-General of Banking Companies appointed under section 3;

10 of 1949.  
1 of 1956.

(b) "Banking Company" means a company within the meaning of section 5 of the Banking Regulation Act, 1949 but does not include a Foreign Company within the meaning of section 591 of the Companies Act, 1956.

(c) "prescribed" means prescribed by the rules made under this Act;

(d) words and expressions used but not defined in this Act and defined in the Banking Regulation Act, 1949 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, shall have the meaning, respectively assigned to them in these Acts.

5 of 1970.

Auditor-General of Banking Companies.

3. (1) There shall be an Auditor-General of the Banking Companies who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as the Comptroller and Auditor-General of India under the provisions of the Constitution.

(2) Every person appointed as the Auditor-General of Banking Companies shall before entering upon his office, make and subscribe, before the President, or some persons appointed in that behalf by the President, an oath or affirmation according to the form as may be prescribed.

(3) The salary and other conditions of service of the Auditor-General of Banking Companies shall be such as may be prescribed:

Provided that neither the salary of the Auditor-General of Banking Companies nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

Duties and powers of the Auditor-General of Banking Companies.

(4) The Auditor-General of Banking Companies shall not be eligible for further office either under the Government of India or under the Government of any State or in any Banking Company after he has ceased to hold his office.

4. The Auditor-General of Banking Companies shall perform such duties and exercise such powers in relation to the accounts and audit thereof, of all the Banking Companies as may be prescribed:

Provided that the accounts of all the Banking Companies shall be kept in such form as the Auditor-General of Banking Companies may prescribe.

The Banking Companies to furnish accounts, to Auditor-General of Banking Companies for audit.

5. Every Banking Company shall furnish to the Auditor-General of Banking Companies all the accounts maintained by it, who shall cause them to be audited not later than six months after the last date of a financial year to which the accounts relate.

Audit Reports.

6. The Reports of the Auditor-General of Banking Companies relating to the accounts of the Banking Companies shall be submitted to the President who shall cause them to be laid before each House of Parliament.

Act to have overriding effect.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

8. (1) The Central Government may, with the approval of the President, and by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Power to  
make  
rules.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the appointment of the staff of the Auditor-General of Banking Companies;

(b) the salary, allowances and pension payable to and other conditions of service of the Auditor-General of Banking Companies;

(c) the form in which the audit of accounts of the Banking Companies may be made;

(d) any other matter which is to be or may be prescribed or in respect of which this Act makes no provisions or makes insufficient provisions and provision is in the opinion of the President necessary for the proper implementation of this Act.

## STATEMENT OF OBJECTS AND REASONS

Huge amounts of monies are deposited in the Banks and they hold the funds and invest them. There is hardly any arrangement for the total audit of the accounts of the banks every year. The partial and incomplete audit as is done now is no protection against manipulation and falsification of accounts and cases of fraud and misappropriation are on the rise and the Banking system is in peril. This bill seeks to set up an independent audit authority to carry out total audit of all the banks of the country every year.

GURUDAS DAS GUPTA

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the appointment of an Auditor-General of Banking Companies. It will also be necessary to provide requisite staff for the office of the Auditor-General of Banking Companies. Expenditure incurred on this account will be met from the Consolidated Fund of India.

It is estimated that the expenditure involved will be of the order of rupees one crore per annum of recurring nature and rupees fifteen lakhs of non-recurring nature.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 8 of the Bill empowers the Central Government to make rules to carryout the purposes of the Bill when enacted. The matters in respect of which rules may be made are matters of procedure or detail. The delegation of legislative power is, therefore, of a normal character.



## IV

## BILL NO. XVIII OF 1986

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

Short  
title and  
Commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Seventh Schedule to the Constitution,—

Amend-  
ment of  
Seventh  
Schedule.

(i) in List II-State List, after entry 10, the following entry shall be inserted, namely:—

“11. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.”; and

(ii) in List III-Concurrent List, entry 25 shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

The founding fathers of the Constitution included "Education" in the State List after much deliberations. It continued to remain in the State List till 1975-76. "Education", however, was transferred to Concurrent List by the enactment of the Constitution (Forty-second Amendment) Act, 1976, i.e. during the Emergency. Although, by the Forty-fourth Amendment of the Constitution, certain undemocratic features introduced by the Forty-second Amendment were done away with. 'Education' continued to remain in the Concurrent List.

The democratic student and youth movement, a wide segment of the educationists and progressive public opinion in our country have consistently held the view that 'Education' should be State subject in order to enable the State Governments to formulate appropriate policies and programmes for the widest dissemination of education in keeping with the hopes and aspirations of the people of the States which alone can ensure the rapid cultural development of the Indian People as a whole.

The Union Government has not shown adequate interest in the matter of spread of education. Although the widest segments of the student and teaching community have demanded 10 per cent. allocation in the Plan expenditures for education, the actual allocation in the plans did never exceed 25 per cent. of the total plan outlays. This reveals the apathy of the Plan framers towards education. Education admittedly is the key to the success of the Plans. It is all the more disturbing to note, that average per head expenditure on education by the Union Government comes to only 4 paise. West Bengal, which is genuinely interested in the spread as well as the improvement of standard of education, made budgetary allocation for education for the year 1983-84 of Rs. 418 crores despite severe limitation of resources. This means expenditure of Rs. 73 per head on education in West Bengal.

In view of the above facts it is felt that education should be reverted back to the State List in tune with the federal spirit of the Constitution and the distortion caused by the Forty-second Amendment of the Constitution should be corrected.

Hence, this Bill.

CHITTA BASU

## V

## BILL No. XXIII OF 1986

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1986.
2. After Part XI of the Constitution the following Part shall be inserted namely:—

Short  
title.

Insertion  
of new  
Part XIA.

## "PART

*PLANNED DEVELOPMENT OF THE COUNTRY*

263A. (1) The President shall constitute a National Development Council hereinafter referred to as "Council" with the Prime Minister as its Chairman.

Constitu-  
tion of  
National  
Develop-  
ment  
Council.

(2) The Council shall consist of the Union Ministers for Finance and Planning, Chief Ministers of States, State Ministers of Finance or Economic Affairs, and such number of eminent economists and financial and planning experts as the President, may appoint to the Council from time to time.

263B. (1) Subject to the provisions of Parts III and IV of the Constitution the Council shall prepare an Approach Document for National Development Plan for the development of the country as a whole for a period of five years or for such period as may be decided by the Council setting in broad terms the aims and objects of the Plan and laying down the guidelines for the Planning Commission constituted under article 263C.

Functions  
of Nation-  
al Develop-  
ment  
Council.

(2) The Council shall from time to time make an appraisal of the progress achieved in the implementation of each stage of the Plan and issue guidelines to the Planning Commission for adjustment of policies and measures that may appear to be necessary in the light of such appraisal, to achieve the object as laid down in the Approach Document.

Constitu-  
tion of  
Planning  
Commis-  
sion.

263C. (1) The President shall constitute a Planning Commission with the Prime Minister as its Chairman.

(2) The Planning Commission shall consist of the Union Ministers for Planning and Finance and eight other members to be appointed by the President from amongst the eminent economists and financial and planning experts.

(3) The Union Minister for Planning shall act as the Deputy Chairman of the Planning Commission.

Functions  
of Plann-  
ing Commi-  
ssion.

263D. (1) The Planning Commission shall formulate a National Development Plan for a period of five years or for such period as may be decided by the Council for the effective and balanced utilisation of the country's resources and the Plan so formulated by the Planning Commission shall adhere to the Approach Document prepared by the Council.

(2) The National Development Plan shall be submitted to the National Development Council for approval.

(3) The Planning Commission shall take steps for the implementation of the approved Plan in co-ordination with the concerned Ministries and Departments of the Central Government and the State Governments.

(4) The Planning Commission shall from time to time make appraisal of the progress achieved in the implementation of each stage of the Plan and shall recommend to the Council the objectives, policies and measures that may appear to be necessary in the light of such appraisal for achieving the aims and objectives as set down under clause (1) of article 263B.

(5) The Planning Commission shall make such interim recommendations as appear to it to be appropriate either for facilitating the discharge of the duties assigned to it by the Council or for taking into consideration the prevailing economic conditions, current policies, measures and development programmes, or for examining such specific problem as may be referred to it for advice by the Central Government or the State Government.

(6) The Planning Commission shall have the power to determine its procedure of work and shall have such other powers in the matter of performance of its functions as the Council may confer on it and shall be accountable to the Council for its performance.

(7) The Planning Commission shall have power to issue such directives to various Ministries and Departments of the Central Government and the State Governments as it may consider necessary to achieve the successful and effective implementation of the various stages of the National Development Plan.”

## STATEMENT OF OBJECTS AND REASONS

The need for economic co-ordination and planning to solve the complex and diverse problems facing our Nation can hardly be over emphasised.

The National Development Council was envisaged as the highest policy making body on social and economic issue and the Planning Commission as an instrument to implement the Council's directions. But, unfortunately, both of them over the years have functioned in a manner entirely different from what was originally envisaged. The purposes for which they were designed have been practically defeated. The deliberations in the Council, which meets rather infrequently, are hardly different from mere rituals. Little scope exists in the meetings for any substantive deliberations on very vital economic issues facing the country at different points of time. Experience has shown that there have been long periods of hibernation, even when plans have run into serious difficulties because of inflation, shortage of resources, shrinkage of external aids and political instability in many parts of the country. Instead of deliberating on the policy issues and distortions of the plan strategy resulting in the dilution of the self-reliance, increasing regional imbalances, concentration of wealth in fewer hands and alarmingly widening disparities between income and assets of the vast multitudes and the tiny few. The nation has helplessly witnessed a whole session of the National Development Council devoted to extolling the virtues and achievements of the 20-Point programme which is less heard about now. The only regular feature of the functioning of the National Development Council is to approve the draft plans, after they are finalised in New Delhi, ignoring the approaches and views of the State Governments. Whatever might be the trends of discussion in the National Development Council, the outcome is invariably the unanimous ratification of the plan size.

The Planning Commission has similarly been transformed into an appendage of the Union Government. It is devoid of authority, power and initiative. It has, therefore, failed to respond to the needs of the people and fulfil its assigned role.

The Planning Commission, an extra-constitutional body, has often tinkered with the overall size of the States' outlays and haggled over the annual plan and non-plan assistance and the proportions of loans and grants. But it has shown no interest in encouraging and helping them to draw up coherent plans with the aid of the expert State-level Planning Machinery.

The situation may be remedied if the National Development Council and Planning Commission are made constitutional bodies with well defined composition and functions deriving their authority and powers from the Constitution itself. These bodies should be so designed as to make them nodal agencies between the Union and the States in matters relating to economic co-ordination and planning.

The Bill seeks to achieve these objectives.

CHITTA BASU.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the Constitution of National Development Council and Planning Commission which *inter alia* shall consist of eminent economists and financial and planning experts. Payments will have to be made to them in the form of travelling allowance, daily allowance, etc. when the meetings of the National Development Council and Planning Commission take place. The Bill, if enacted will, therefore, involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten lakhs per annum.

It is also likely to involve a non-recurring expenditure of about rupees two lakhs.

## VI

## BILL No. XXXIV OF 1986

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1986.

Short  
title.

2. In article 324 of the Constitution,—

Amend-  
ment of  
article  
324.

(a) in clause (1), after the words “under this Constitution”, the words “and all elections to panchayats and other local bodies held under any law for the time being in force,” shall be inserted;

(b) in clause (4),—

(i) after the words “Legislative Assembly of each State”, the words “and to the panchayats and other local bodies,” shall be inserted;

(ii) after the words “Regional Commissioners”, the words “and State Commissioners”, shall be inserted;

(c) in clause (5),—

(i) for the words “and the Regional Commissioners”, the words “, Regional Commissioners and the State Commissioners” shall be substituted;

(ii) in the second proviso, after the words "Regional Commissioner", the words "or a State Commissioner" shall be inserted;

(d) in clause (6), after the words "Regional Commissioner", the words "or to a State Commissioner" shall be inserted.

Amend-  
ment of  
article  
325.

3. In article 325 of the Constitution, after the words "Legislature of a State" the words "or to a panchayat or other local body" shall be inserted.

Amend-  
ment of  
article  
326.

4. In article 326 of the Constitution, after the words "every State", the words "and to a panchayat or other local body" shall be inserted.

Amend-  
ment of  
article  
328.

5. In article 328 of the Constitution,—

(i) after the words "the State", the words "or panchayats or other local bodies falling within the territorial jurisdiction of the State" shall be inserted;

(ii) after the words "House or Houses" the words "or panchayats or local bodies" shall be inserted.

Insertion  
of new  
article  
329A.

6. After article 329 of the Constitution, the following article shall be inserted, namely:—

"329A. (1) The Panchayats and other local bodies shall have a term of five years.

(2) It shall be the duty of the Election Commission to hold elections to the panchayats and other local bodies within a period of three months from the date of expiry of the term of the Panchayat or local body, as the case may be unless the Election Commission by a notification otherwise declares with the reasons therefor."

Duty  
of the  
Election  
Com-  
mission  
to ensure  
timely  
elections  
to Pan-  
chayats,  
etc.

Amend-  
ment of  
Seventh  
Schedule.

7. In the Seventh Schedule to the Constitution,—

(i) in List I—Union List, after entry 72, the following entry shall be inserted, namely:—

"72A. Elections to local self-government, that is, to municipal corporations, improvement trusts, district boards and panchayats.";

(ii) In List II—State List, in entry 5, the words "subject to the powers of the Election Commission in regard to election to such bodies", shall be added at the end.



## STATEMENT OF OBJECTS AND REASONS

Decentralisation of power is urgently needed to involve the people in larger number in policy making decisions and implementation of developmental programmes. This alone can make democracy participative and meaningful. The vastness, diversities and complexities of the socio-economic structure in our country make the need of decentralisation of power all the more imperative.

Panchayati Raj institutions and Local Self Government Bodies are the instruments of people's participation in the administration of civic affairs as well as developmental activities.

It is our sad experience that periodical elections to these Local Self Government Bodies and Panchayati Raj institutions have not been held for considerable time in quite a good number of States. The vested interest continues to rule the roost there. Regular elections can alone meet this situation.

This Bill seeks to achieve the above objective.

CHITTA BASU

## FINANCIAL MEMORANDUM

Clause 2(a) of the Bill provides that superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to panchayats and other local bodies shall be vested in the Election Commission. Clause 2(b) (ii) provides for the appointment of State Commissioners. Clause 2(d) provides for the staff to the State Commissioners. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees sixteen lakhs annually from the Consolidated Fund of India. A non-recurring expenditure of about rupees four lakhs is also likely to be incurred.

## VII

## BILL NO. XL OF 1986

*A Bill to provide for the payment of minimum wages and for welfare of agricultural workers*

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Agricultural Workers (Minimum Wages and Welfare) Act, 1986.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the State Government and in the case of a Union territory, the Government or the Administration, as the case may be, of the Union territory;

(b) “authority” means the Authority appointed by the appropriate Government under section 3;

Short  
title,  
extent and  
commence-  
ment.

Defini-  
tions.

(c) "employer" means any person who employs, whether directly or through another person, whether on behalf of himself or on behalf of any other person, one or more workers for any work connected with the agricultural operations on land, which he owns or is managing for somebody else;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "wages" means remuneration capable of being expressed in terms of money, which shall, if the terms of the contract of employment, whether express or implied, are fulfilled, be payable to a person in respect of the work done in such employment; and

(f) "worker" means an agricultural worker who earns wages on daily or any other basis.

Establishment of Agricultural Workers Welfare Authority.

3. (1) The appropriate Government shall, by notification in the Official Gazette, establish an Agricultural Workers Welfare Authority (hereinafter referred to as "Authority").

(2) The Authority shall have such set-up and such powers as the appropriate Government may, determine from time to time.

Duties of Authority.

4. (1) The Authority shall,—

(a) maintain land records from village or panchayat level to district level;

(b) maintain a district-wise Register of agricultural workers with such particulars, and in such manner, as may be prescribed;

(c) maintain a district-wise Register of employers employing agricultural workers with such particulars, and in such manner, as may be prescribed; and

(d) regulate the service conditions of agricultural workers in such manner, as may be prescribed.

(2) The Authority shall perform such other functions as may be assigned to it by the appropriate Government from time to time.

Punishment to unregistered employer.

5. (1) No employer shall engage any agricultural worker unless he has registered himself with the Authority.

(2) If an unregistered employer engages any person for working on his land he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Wages to be paid to workers.

6. Every employer shall pay a minimum of rupees six hundred per month or rupees twenty per day to a worker engaged by him for work on his land, and this rate of wages shall be subject to change in accordance with the rise in price index.

Counting of period of service of workers.

7. Every day of the work done by the worker shall be counted for the purpose of calculating the total period of service rendered by the worker in a month or a year.

8. (1) The Central Government shall by due appropriation constitute a Fund to be called the Agricultural Workers Welfare Fund for the welfare of agricultural workers.

Agricultural workers Welfare Fund.

(2) Such Fund shall be placed at the disposal of the Authority.

9. There shall be formulated a Scheme by the appropriate Government for providing pension-cum-Provident Fund facility to the workers on their attaining the age of 55 years.

Pension and Provident Fund facility to workers.

10. The Authority shall submit to the Central Government such periodical returns, including a list of the workers of the district registered with the Authority, within such intervals and with such particulars, as may be prescribed.

Authority to submit periodical returns.

11. Every employer shall, before engaging any worker, notify his need of workers to the Authority within whose jurisdiction his land is situated.

Employer to notify his need of workers to authority.

12. No employer shall reject a worker on the ground that he is not capable of performing a particular job.

Employer not to reject workers.

13. There shall be an Advisory Council to advise the appropriate Government on the implementation of this Act.

Advisory Councils.

14. The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

At present there is no legal protection for agricultural workers in regard to their working conditions, wage structure, pension and other social security measures. Their condition is becoming worse day by day. Considering their vast number and their contribution to the national wealth, it is high time that this vital section of the society is given all possible legal protection.

Hence, this Bill.

N. E. BALARAM

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### FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the constitution of an Agricultural Workers Welfare Fund. This Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a non-recurring expenditure of about rupees thirty crores. No recurring expenditure is likely to be involved from the Consolidated Fund of India.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill provides for the appropriate Government to frame rules for carrying out the purposes of the Act. Since the rules will relate to matters of details only, the delegation of the legislative power is of a normal character.

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SUDARSHAN AGARWAL,  
*Secretary-General.*

